

FILED - GR

July 30, 2015 2:41 PM

TRACEY CORDES, CLERK

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY: mkc SCANNED BY: Mkc 7/31/15

Name: DELOIS BARTLEY
Address: 1136 FULLER AVE. S.E.
G.R. MI. 49506
Telephone: 616 2431521
Defendant in Pro Se

1:15-cv-784

Janet T. Neff
U.S. District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

WELLS FARGO BANK, NA
Plaintiff,

vs.

DELOIS BARTLEY
Defendant.

) Case No.:

) **NOTICE OF REMOVAL**
) [28 U.S.C. 1441, 14446 (6)]

) **FROM THE 61ST DISTRICT COURT**
) KENT COUNTY

) Case No.:

) 15LT2311

Defendant alleges:

PARTIES AND COUNSEL

1. Defendant, DELOIS BARTLEY, and Plaintiff, WELLS FARGO, NA
are those parties in a KENT County Court filed in the 61ST DIST. Court,
KENT County, concerning real property located at 1136 FULLER
AVE S.E. 49506 [hereinafter referred to as "premises"], within this court's jurisdiction.

2. Defendant, DELOIS BARTLEY is the tenant of the premises, and participant in this
litigation.

3. Wherefore, Defendant, is a bona fide tenant.

4. Plaintiff is represented by Counsel in the County Court action and is:

NOTICE OF REMOVAL

Name: DONALD J KING

Address: 31446 NORTHWESTERN HWY STE
200
FARMINGTON HILLS, MI,
48334-5422

FEDERAL QUESTION

5. Plaintiff has actually filed a Federal Question Action in KENT County Court, for which the KENT County Court Action is removed under 28 U.S.C. 1441 *et seq.* *Hunter v Philip Morris*, USA, 582 F. 3d 1039, 1042-43 (9th Cir. 2009); 28 U.S.C. 1331.

6. The Complaint in this action was filed in KENT County Court as artful pleading, entitled by the County Court as "COMPLAINT TO RECOVER PROPERTY". Pleadings intentionally fails to allege compliance with the Civil Rights Act of 1968.

DEFENDANT DISCRIMINATED ON AGE, ECONOMIC STATUS, / DISABILITIES

7. A well-placed Complaint is shown at least where the Plaintiff's right to relief necessarily depends on resolution of a substantial question of Federal Law. [*Armstrong v N. Mariana Islands*, 576 F. 3d 950, 954-55 (9th Cir. 2009); *Empire Healthcare Assurance v. McVeigh* 547 US 677, 687-690 (2006); *Franchise Tax Bd v. Const. Laborers Vacation Trust for S. Cal.* 463 US 1, 12, 27-28 (1983)].

8. Even where the cause of action is based on state law, the District Court has subject matter jurisdiction over the case if (1) the federal issues are essential to the claims, (2) there is a substantial federal issues in resolving such issues, and (3) a Federal forum may entertain the State Law claims without disturbing the balance of Federal and State judicial responsibilities. [*Grable & Sons Metal Prods v. Darue Engr & Mfg.* 545 US 308, 313, 315 (2005)]. Here, the rights of the Defendants are clearly at stake.

NOTICE OF REMOVAL

9. To be a Federal Cause of Action, there must also be a private right of action. [*Merrill Dow Pharms. Inc. v. Thompson* 478 US 804, 817 (1986)]. It can be either express or implicit. [*Diaz v. Davis* 549 Fed 3d 1223, 1229-1230 (9th Cir. 2008)]. The Court must look to the "rights creating" language and statutory structure within which it is contained. [*Lamie v. Unites States Trustee* 540 US 526, 534 (2004)]. The Court must assume that Congress did not intend to create a right without a remedy. [First *Pacific Bancorp, Inc. v. Helfer*, 224 F. 3d 1117, 1123, 1125-26, (9th Cir. 2000)].

10. Defendant is a members of a protected class of whom the statue, the "Civil Rights Act of 1968" was created.

11. The Federal Cause of Action in ejectment/eviction is the basis for this action, irrespective of artful pleading, such that action could have been brought in Federal District Court.

REMOVED ACTION

12. The Notice of Removal is timely under Section 1446 (b) of Title 28 of the United States Code because it is filed within 30 days of discovering that the case was ripe for removal.

13. A true and correct copy of the County Court Complaint of the action, Defendant's Pre-Judgment Claim of Right to Possession and related documents, sought to be removed to this Court are attached hereto and incorporated herein by reference.

14. Defendant is a bona fide residential tenant and entitled to the protection of the Federal Court, and entitled to remove this action to Federal Court.

15. Under MICHIGAN Code of Civil Procedure the County Court hereby loses jurisdiction under the Federal Rules of Civil Procedure and does not recover jurisdiction, if at all, until and unless this action is remanded to the County Court, after which jurisdiction will again

NOTICE OF REMOVAL

1 attach as described in that statute.

2

3

Dated: 7-30- 2015

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

DeLois Bartley

Name: DELOIS BARTLEY

Address: 1136 FULLER AVE S.E GR

Telephone: 616 243 1521

MI
49506

Defendant in Pro Se

NOTICE OF REMOVAL